United Nations S/2002/1048

Security Council

Distr.: General
19 September 2002

Original: English

Letter dated 18 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/630).

The Counter-Terrorism Committee has received the attached supplementary report from the former Yugoslav Republic of Macedonia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-60064 (E) 091002

Annex

Note verbale dated 11 September 2002 from the Permanent Mission of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Macedonia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, with reference to the Chairman's note of 28 May 2002, has the honour to transmit the supplementary report of the Republic of Macedonia on the implementation of resolution 1373 (2001) (see enclosure).

Enclosure

Report supplementary to the initial report of the Republic of Macedonia to the Counter-Terrorism Committee, submitted pursuant to resolution 1373 (2001)

On questions raised under Sub-paragraph 1 (a) and (b) of the Resolution:

The special Law against terrorism is still being drafted by the special Commission set up for that purpose. Consequently, amendments to the Criminal Code and the Law on Criminal Procedure announced in the Initial report of the Republic of Macedonia to the CTC pursuant to SC resolution 1373 (2001) are also being drafted and are yet to be put into parliamentary procedure. The same applies to the amendment of Article 17 of the Constitution. The main reason is that after the Framework Agreement had been signed in August 2001 and the related amendments to the Constitution of the Republic of Macedonia subsequently adopted, the priority was given to the adoption of new laws or amendments to the existing laws which required harmonization with the new constitutional setting pronounced by the Parliament on 16 November 2001.

Taking into account the upcoming parliamentary elections in the Republic of Macedonia in September of this year and the current recess in the work of the Parliament pending elections, it is to be expected that these laws will enter the parliamentary procedure at the earliest convenience, after the new Parliament is composed.

On the question raised under Sub-paragraph 1 (c) of the Resolution:

The Ministry of Finance - newly established Financial Police Department, as well as the Ministry of Interior, have the authority to freeze without delay funds and other financial assets or economic resources of persons or entities involved in terrorism related activities and have developed administrative procedures and practice to that end.

On questions raised under Sub-paragraph 1 (d) of the Resolution:

Pursuant to Article 24, Paragraph 1 of the Law on Prevention of Money Laundering:

"Any natural or legal person, as well as lawyers, notaries, authorized accountants and auditors, are obliged to submit reports to the Directorate against Money Laundering on the transactions suspected of having been or may be used for money laundering, as well as on funds which are suspected to originate from a criminal activity".

"Persons from Paragraph 1 of this Article are obliged to report on realized transactions in cases where it was not possible to postpone or avoid their realization and where only after the transaction was made, it was discovered that the transaction involved suspicious funds.

The duty to report without delay exists also with regard to any information which can confirm or deny suspicions."

Pursuant to Article 31, Paragraph 1 of the Law on Prevention of Money Laundering:

"Any legal person which declines to report to the Directorate on suspicious transactions will be charged for an offense with a fine in the amount of 150.000,00 denars to 300.000,00 denars."

Pursuant to Article 31, Paragraph 2 of the Law on Prevention of Money Laundering:

"Any responsible person in a legal person who declines to report to the Directorate on suspicious transactions will be charged for an offense with a fine in the amount of 40.000,00 denars to 50.000,00 denars."

In the Republic of Macedonia, there is no legislation regulating alternative money transfer agencies. A project on regulating money transfers by legal persons other than banks is currently under way.

On questions raised under Sub-paragraph 2 (a) of the Resolution:

Article 322 of the Criminal Code of the Republic of Macedonia incriminates the crime of "Service in an Enemy Army" stipulating that the crime is committed when "a national of the Republic of Macedonia, who during a war or in an armed confrontation serves in an enemy army or in other enemy armed formations, or fights in a war or armed confrontation as a combatant against the Republic of Macedonia or against its allies, will be sentenced to prison of up to three years.

Also, "anyone who recruits a national of the Republic of Macedonia to serve in an enemy army or other enemy armed formations, or to fight in a war or armed confrontation against the Republic of Macedonia or against its allies, will be sentenced to prison of up to five years..."

As it was explained already in the Initial report on the territorial scope of the criminal jurisdiction for the crime of terrorism and other related crimes, one of them being the aforementioned crime, the Criminal Code of the Republic of Macedonia is to be applied to anyone who commits any of these crimes abroad, including to those who recruit nationals of the Republic of Macedonia outside the territory of the Republic of Macedonia for the aforementioned purposes.

The cross border police cooperation and exchange of information with the countries in the region have been intensified, in particular with the neighbouring countries, as well as with the UNMIK and KFOR as far as the control of the Kosovo section of the border with FR of Yugoslavia is concerned, in accordance with the resolution 1244 (1999). In this context, the Macedonian government has approved on 3 September 2002 the Protocol on Police Cooperation with the UNMIK on the issues of the fight against crime and criminal organizations, particularly in the areas of trafficking of drugs and women, prostitution, money laundering and smuggling of weapons, including the sharing of information about criminals and criminal organizations, as well as to enhance cooperation on combating terrorism which destabilizes regional security and confidence building measures. These include sharing of information regarding organized terrorist of criminal groups, their finances and funding mechanisms, plans and activities, their structure, management and composition; their *modus operandi* and areas of operation, and their relationship with other suspected criminal or terrorist groups operating in the territory of Kosovo, SRJ, the Republic of Macedonia and in other countries. Also, information for identification of terrorist groups, provision of criminal records, provision of original or certified copies of relevant documents and records, including bank, financial, corporate or business records; notification of suspicious financial transactions; and provisions of expert reports.

In 2001 the Agreement on Police Cooperation with Bulgaria was signed. It includes the cooperation on the matters of organized crime and terrorism.

The Republic of Macedonia participated in the UNDCP/PHARE project for strengthening drug law enforcement capacities in South Eastern Europe, involving in the first stage Macedonia, Bulgaria and Romania. Under this project, technical assistance was provide to the three countries in this area. As a result, national drug intelligences units were created and over 3000 officers were trained. Since January 2002 this project was expanded to include other countries from South Eastern Europe.

On questions raised under Sub-paragraph 2 (b) of the Resolution:

For the purpose of enhancing inter-ministerial and interagency coordination, the Government of the Republic of Macedonia on its session on 25 June 2002 has decided to form, under the auspices of the Ministry of Foreign Affairs, a special coordination unit comprising of representatives from ministries of defense, finance, justice, foreign affairs, interior and intelligence agency to deal in a comprehensive manner with the terrorism related issues. This Unit, will serve as a focal point with all relevant international organizations on terrorism related activities.

The three main security structures Ministry of Interior, the Intelligence Agency and the Military Intelligence Service have regular meetings at senior officials level, exchange information and inform the highest state officials accordingly.

The Intelligence Agency cooperates with their counterparts in other countries and shares relevant information on possible terrorist activities.

On question raised under Sub-paragraph 2 (c) of the Resolution:

Although there is no special legislation in this field, according to the Law on Movement and Stay of Foreigners, the state has a discretionary right to deny safe haven to those who finance, plan, support or commit terrorist acts or provide safe haven. The new Law on Asylum and Migration, drafted according to the EU standards, will regulate this issue. The draft law is supposed to enter the parliamentary procedure after the September 15, 2002 parliamentary elections.

As far as the Resolution 1373 (2001), in particular with sub-paragraph 2 (c) of the resolution is concerned, immediately after its adoption, all the relevant authorities have been informed on the provisions and the obligations arising from the resolution, including to deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe haven.

The resolution of the last year crisis and the process of reestablishment of effective control by the state authorities and the rule of law in the territory affected by the crisis in accordance with the Framework Agreement of 13 August 2001 is of essential importance for the compliance with the provisions of the resolution 1373 (2001).

On questions raised under Sub-paragraph 2 (d) of the Resolution:

In the Criminal Law of the Republic of Macedonia, the concept of unity of crime has been applied. The application of this concept legalizes the repressive powers and jurisdiction of the national courts in cases where only action was taken, or only consequences were caused on the territory of the Republic of Macedonia. The same concept is applied to the crimes in preparation and in attempt. It is also applied to complex, multi-act crimes, which are considered to be committed in each place where some of the actions constituting the crime were taken, or where some of the consequences constituting the crime were caused.

Though it was not specifically mentioned in the Article of the Criminal Code which incriminates international terrorism, any attempt, instigation, assistance and preparation of the crime of international terrorism is incriminated and punishable, according to the general rules set forth in the Criminal Code.

On questions raised under Sub-paragraph 2 (f) of the Resolution:

The procedure for international legal assistance is regulated in the Criminal Procedure Law which stipulates (Article 502) that the procedure for international legal assistance is to be carried out in accordance with the procedure set forth in the Criminal Procedure Law, but restrictively i.e. only in cases where something else is not envisaged with an international agreement, or in cases where something different is not envisaged with a bilateral agreement with another State. In this connection, Article 506 stipulates that for the crimes of: forgery; illegal production, manufacturing and selling of drugs and poisons; trafficking in people, production and dissemination of pornographic contents; as well as for other crimes for which according to the international agreements centralization of data is envisaged, the Court which has respective authority to conduct the criminal procedure has a duty without a delay to submit to the Ministry of Interior all relevant data with regard to the crime, the perpetrator, and the verdict in force. The latter is also applicable and in compliance with the obligations deriving from membership in INTERPOL, as well as the United Nations and its instruments.

The legal timeframe within which a request for judicial assistance in criminal investigation for criminal proceedings relating to the financing or support of terrorist acts is set as stipulated in the European Convention on Mutual Assistance in Criminal Matters to which Macedonia is a party.

In this connection, as indicated in the Initial report to the CTC, the Republic of Macedonia ratified the Convention on the Transfer of Convicted Persons and the First Additional Protocol to the Convention; European Convention on Extradition and the Additional Protocol to the Convention; European Convention on Mutual Legal Assistance in Criminal Matters and the Additional Protocol to the Convention. These international legal instruments, as of the date of ratification, became integral part of its legal system.

On questions raised under Sub-paragraph 2 (g) of the Resolution:

Effective border control is one of priorities for Macedonia. Furthermore it is essential for our future relations with the EU, specifically in the context of the Stabilization and Association Agreement. There is a number of projects including those within the Stability Pact for South-East Europe (III Working Table - Justice and Home Affairs), South Eastern Europe Cooperation Initiative. The latest project is developed with the IOM/EU and is aimed at integrated border management. This means introduction of new technologies, computerization and networking of data, including on forged IDs, on the border crossing checkpoints, as well as those related to the movement of terrorist groups.

The border control is to be further strengthened with the formation of police border brigade. This project was developed in cooperation with the German border police, in accordance with the EU standards, and has been submitted to the EC for funding.

On questions raised under Sub-paragraph 3 (a) and (b) of the Resolution:

As indicated in the initial Report to the Committee, the Ministry of Defense and the Army of the Republic of Macedonia, have established regular exchange of information with NATO (KFOR) structures through a coordination cell.

Also see under 2 (b).

On questions raised under Sub-paragraph 3 (c) of the Resolution:

The extradition procedure for indicted and convicted persons is set forth in Criminal Procedure Law (Article 509) which stipulates that extradition of indicted and convicted persons will be initiated and carried out according to the procedure set forth in the Criminal Procedure Law, but only in cases where something else is not envisaged with an international agreement. In other words, the procedural means and guarantees that are subject to proposals, deliberations and decisions in the extradition procedure are to be applied restrictively, only to cases which are not regulated differently with an international agreement for extradition, and in cases where there is no bilateral agreement on extradition between the Republic of Macedonia and another State which seeks extradition.

In this context, it must be underlined that the domestic legislation is not yet fully harmonized with the international instruments in this field, which is to be done with the proposed amendments to the Criminal Procedure Law.

The Republic of Macedonia became a party to the European Convention on Extradition on 26 October 1999.

As to the bilateral agreements on extradition in effect, the Republic of Macedonia has concluded such agreements with the Republic of Albania, the Republic of Bulgaria, and the Republic of Slovenia. With the Republic of Turkey, the extradition procedure is regulated with the Agreement on Legal Assistance in Civil and Criminal Matters.

In this context, it is worth clarifying that according to the Constitutional law on the application of the Constitution of the Republic of Macedonia, the Republic of Macedonia, as a state successor to the former SFR of Yugoslavia along with the other four States successors, took over, by succession, federal laws of the former State which regulated issues of international legal assistance in criminal matters, including the extradition procedures. By virtue of succession, the Republic of Macedonia took over the bilateral agreements of the former SFRY with the following states: Algeria, Belgium, Greece, Italy, Hungary, Mongolia, Germany, Poland, Romania, Russian Federation and Spain.

The cases where the extradition is not allowed are regulated differently in each of the bilateral agreements to which the Republic of Macedonia is a party. In some of the bilateral agreements in place, and only by exemption, the extradition is not allowed for the political and military crimes. These limitations, however, have nothing to do with the crime of terrorism, which is not considered to be a political crime.

On questions raised under Sub-paragraph 3 (d) of the Resolution:

There has been no changes to the status reported in the initial report.

On questions raised under Sub-paragraph 3 (e) of the Resolution:

Please see the explanation provided to the questions raised under Sub-paragraph 2 (c).

On questions raised under Sub-paragraph 4 of the Resolution:

On many occasions and in various international forums, including within the United Nations, the officials, representatives and delegates of the Republic of Macedonia have repeatedly pointed out, primarily based on the bitter experience of the country during the last year's events and security crisis it underwent, to the close inter-linkages between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking etc., especially in the region of the South-eastern Europe which represents serious threat to the regional and international peace and security.

On the 56th session of the General Assembly of the United Nations, the delegation of the Republic of Macedonia has proposed and the GA adopted the resolution A/RES/56/18 which addresses those interconnections and urges states in the region to closely cooperate and to take effective measures, especially against illegal arms-trafficking, illicit trade in people, organized crime, drug trafficking and money-laundering which will help prevent and suppress the acts of terrorism in the region.

The aim of various projects in which the Republic of Macedonia participates within the UNDCP, SECI, CARDS etc. is to address comprehensively the issues raised under para. (c).

On questions raised under "Other matters":

No specific organizational chart is currently available.